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8. (Amended) The portable wind powered generator tower of claim 2, wherein:
the carriage includes a plurality of contacts configured to contact a rotating portion of the wind powered generator to allow power to be transferred from the wind powered generator to a remote point.
9. (Amended) A wind powered generator support assembly for supporting a wind powered generator comprising:
a tower; and
a vertical elevator on the tower, the elevator including a track and a carriage configured to move along the track, the carriage including a pivot ring configured to accept the wind powered generator therein for allowing the wind powered generator to rotate about the carriage;
wherein the vertical elevator is configured to vertically lift the wind powered generator with the carriage to position the wind powered generator at a top of the tower.
16. (Amended) The wind powered generator support assembly of claim 9, wherein:
the carriage includes a plurality of contacts configured to contact a rotating portion of the wind powered generator to allow power to be transferred from the wind powered generator to a remote point.
18. (Amended) A wind powered electrical generation system comprising:
a tower including a vertical elevator, the vertical elevator having a track and a carriage configured to move along the track; and
a wind powered generator configured to be connected to the carriage, the wind powered generator including a plurality of airfoils and an electric generator;
wherein the wind powered generator can be removably placed within the carriage after the tower has been erected and lifted vertically with the carriage to position the wind powered generator at a top of the tower; and
wherein the wind powered generator can be removed from within the carriage after the

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carriage has been lowered.

24. (Amended) The wind powered electrical generation system of claim 18, wherein:
the carriage includes a pivot ring configured to accept the wind powered generator therein; and
the pivot ring includes a plurality of roller bearings configured to accept a portion of the wind powered generator thereon, thereby allowing the wind powered generator to rotate.
28. (Amended) The wind powered electrical generation system of claim 27, wherein:
the airfoils are configured to pivot about the spars and to slide longitudinally along the spars;
the airfoils are biased towards a first end of the spars connected to the rod;
each spar includes a cam member adjacent a second end of the spar opposite to the rod;
each airfoil includes a cam surface configured to engage the cam member on the spar;
the cam member and the cam surface are configured to engage to thereby rotate the airfoils relative to the spars as the airfoils move along the spars towards the second end of the spars.
29. (Amended) The wind powered electrical generation system of claim 18, wherein:
the wind powered generator includes a vertical leg;
the vertical leg is configured to be placed within the carriage and rotate relative to the carriage when the wind powered generator is placed within the carriage.
30. (Amended) The wind powered electrical generation system of claim 29, wherein:
the wind powered generator further includes a horizontal leg including a first shaft and a second shaft, the first shaft being rotatable within the second shaft;
the second shaft of the horizontal leg is connected to an end of the vertical leg;
the airfoils are interconnected to the first shaft; and
the generator is connected to the second shaft.

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31. (Amended) The wind powered electrical generation system of claim 30, wherein:
the second shaft of the horizontal leg is connected to an end of the vertical leg at a
position off center from an axis of the vertical leg.
38. (Amended) The wind powered generator of claim 34, wherein:
the at least two spars comprises at least six spars; and
further including an electrical generator located downwind from the airfoils.
55. (Amended) The wind powered electrical generation system of claim 54, wherein:
the spars extend from the hub in a position substantially perpendicular to the second
member.
56. (Amended) The wind powered electrical generation system of claim 55, wherein:
the airfoils are configured to pivot about the spars and to slide longitudinally along the
spars;
the airfoils are biased towards a first end of the spars connected to the hub;
each spar includes a cam member adjacent a second end of the spar opposite to the hub;
each airfoil includes a cam surface configured to engage the cam member on the spar;
the cam member and the cam surface are configured to engage to thereby rotate the
airfoils relative to the spars as the airfoils move along the spars towards the second end of the
spars.

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"comprising" has been substituted therefor. According to claim 38, the at least two spars comprise at least six spars, which is supported by the specification. Accordingly, all pending claims are believed to have a written description therefor and enabled. If the Examiner has any further questions, he is requested to call the undersigned below.

Claims 4, 8, 16, 28 and 31-33 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 4 has been rejected as including ambiguous language. Claim 4 has been amended to insert the word "another" as suggested by the Examiner. Claims 8 and 16 have been rejected because "a wind powered generator" should be "the wind powered generator." Applicant has amended claims 8 and 16 as suggested by the Examiner. Claim 28 has been rejected because the term "the hub" lacks antecedent basis. The term "hub" has been removed and the term "rod" has been substituted therefor. Accordingly, claim 28 is definite. Claim 31 has been rejected because the term "the first rod" lacks antecedent basis. The noted phrase has been cancelled from claim 31. Accordingly, claims 4, 8, 16, 28 and 31-33 are believed to be definite. If the Examiner has any questions, the Examiner is requested to call the undersigned at the number below.

Claims 9, 10, 15, 17-19, 24 and 26

Claims 9, 10, 15, 17-19, 24 and 26 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,311,434 to Abe. In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of anticipation based upon the prior art. *In re Sun*, 31 U.S.P.Q.2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Applicant respectfully asserts that the Examiner has not yet met his burden of establishing a prima facie case of anticipation with respect to the rejected claims.

Claim 9 defines a wind powered generator support assembly including, among other things, a tower and a vertical elevator on the tower, with the elevator including a track and a carriage configured to move along the track, and with the carriage including a pivot ring configured to accept a wind powered generator therein for allowing the wind powered generator to rotate about the carriage, wherein the vertical elevator is configured to vertically

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lift the wind powered generator with the carriage to position the wind powered generator at a top of the tower. The prior art of record does not disclose or suggest the above noted features of claim 9. Specifically, the Abe '434 patent does not disclose a carriage configured to move along a track or a pivot ring configured to accept a wind powered generator therein for allowing a wind powered generator to rotate about the carriage. According to the Office Action, Abe discloses "a pivot ring in a form of a roller bearing 17." However, the Abe '434 patent discloses element 17 as "a thrust bearing." First, the bearing 17 is a ball and not a ring. Second, the thrust bearing 17 is not configured to accept a wind power generator therein. The bearing 17 is not disclosed as being able to accept anything therein. Accordingly, claim 9 is in condition for allowance.

Claims 10-17 depend from claim 9, and since claim 9 defines unobvious patentable subject matter, claims 10-17 define patentable subject matter. Furthermore, in regard to claim 10, the prior art of record does not disclose or suggest a carriage including a first side groove configured to accept a first vertical strip and a second side groove configured to accept a second vertical strip. The Abe '434 patent does not disclose a carriage having grooves for accepting vertical strips. Accordingly, claims 10-17 are in condition for allowance.

Claim 18 defines a wind powered electrical generation system including, among other things, a tower including a vertical elevator, with the vertical elevator having a track and a carriage configured to move along the track, and a wind powered generator configured to be connected to the carriage, with the wind powered generator including a plurality of air foils and an electric generator, wherein the wind powered generator can be removably placed within the carriage after the tower has been erected and lifted vertically with the carriage to position the wind powered generator at a top of the tower and the wind powered generator can be removed from within the carriage after the carriage has been lowered. The prior art of record does not disclose or suggest the above noted features of claim 18. Specifically, the Abe '434 patent does not disclose a wind powered generator that can be removably placed within a carriage and that can be removed from within a carriage. Accordingly, claim 18 is in condition for allowance.

Claims 19-33 depend from claim 18, and since claim 18 defines unobvious patentable

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subject matter, claims 19-33 define patentable subject matter. Furthermore, in regard to claim 19, the prior art of record does not disclose or suggest a carriage including a first side groove configured to accept a first vertical strip and a second side groove configured to accept a second vertical strip. Specifically, the Abe '434 patent does not disclose a carriage having grooves. Moreover, in regard to claim 24, the prior art of record does not disclose or suggest a carriage including a pivot ring configured to accept a wind powered generator therein. As discussed above in regard to claim 9, the Abe '434 patent does not disclose a ring, much less a ring configured to accept a wind powered generator therein. Accordingly, claims 19-33 are in condition for allowance.

Claims 1-7, 11-14, 20-23 and 57-62

Claims 1-7, 11-14, 20-23 and 57-62 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of U.S. Patent No. 5,244,346 to Ferguson. In order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. There is no reason to combine the Abe '434 patent with the Ferguson '346 patent because if such a combination was made, the nacelle 2 of the Abe '434 patent would not be able to be raised and lowered along the guides 1a of the tower 1. As illustrated in Figs. 6 and 7 of the Ferguson '346 patent, the periphery of the

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upper section 225 of the frame 213 telescopes into the lower section 223 of the frame 213. Furthermore, the periphery of the upper frame 225 is smaller than the periphery of the lower section 223. Therefore, any guides used on the tower 213 as disclosed by the Ferguson '346 patent would not be colinear as the upper section 225 moves into the lower section 223.

Therefore, if the guides 1a were not colinear, the mount 12 as disclosed in the Abe '434 patent would not be able to move up and down the frame. Accordingly, there is no suggestion or motivation for combining the Abe '434 patent and the Ferguson '346 patent.

In regard to the modification in the Office Action to reject claims 1-7, 11-14, 20-23 and 58-62, there is no suggestion or motivation for converging the third column of the tower of the Ferguson '346 patent as used in any combination with the Abe '434 patent. Applicant notes that according to §2142 of the M.P.E.P.:

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

Furthermore, according to the same section:

The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.

According to the Office Action, "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined tower and to provide the upper tower section having the third column converging to the first and second columns for the purpose of accommodating various horizontally extending parts of the generator and to minimize the bending momentum on the tower, since applicant has not disclosed that the converged column solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with three parallel vertical columns." Applicant

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submits that the Examiner has not made a prima facie case of obviousness. First, having a third column converging towards a first and second column would not be useful for accommodating various horizontally extending parts of a generator any more than having a third column not converging towards the first and second column. Notably, all horizontally extending parts of a generator would be located above the top of the tower and therefore a third column converging towards a first and second column would not accommodate any of the horizontally extending parts. Second, according to the Office Action, the third column converging towards the first and second column would "minimize the bending momentum on the tower." Applicant assumes that the Examiner meant that the convergence would minimize the bending moment on the tower. Nevertheless, a third column converging towards a first and second column would not minimize a bending moment on the tower since such a moment is only dependant on the length of the tower and not the shape. Finally, the Examiner bears the initially burden of factually supporting any prima facie conclusion of obviousness. Contrary to the implication in the Office Action, the Applicant does not bear the initial burden of factually supporting any prima facie conclusion of non-obviousness. Accordingly, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the Abe '434 patent with the Ferguson '346 patent.

In regard to the third criterion of obviousness, even if there was a suggestion or motivation for combining the reference teachings, the references do not teach or suggest all the claim limitations. Claim 1 defines a portable wind powered generator tower including, among other things, a lower tower section including a first vertical column, a second vertical column and a third vertical column, an upper tower section including a first upper column, a second upper column and a third upper column, with the first upper column and the second upper column being substantially parallel and the third upper column converging towards the first upper column and the second upper column, and an elevator configured to be connected to a wind powered generator to raise and lower the wind powered generator from the lower tower section to the upper tower section, wherein the lower tower section is configured to be connected to the upper tower section by connecting a top of the first vertical column of the

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lower tower section directly below the upper tower section to a bottom of the first upper column of the upper tower section, connecting a top of the second vertical column of the lower tower section directly below the upper tower section to a bottom of the second upper column of the upper tower section, and connecting a top of the third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the upper tower section, and wherein the elevator is fully assembled and ready to raise and lower the wind powered generator when the lower tower section is connected to the upper tower section. The prior art of record does not disclose or suggest the above noted features of claim 1. Specifically, even if there was a reason to combine the Abe '434 patent and the Ferguson '346 patent, the resulting tower would not include a lower tower section configured to be connected to an upper tower section by connecting a top of a first vertical column of a lower tower section directly below an upper tower section to a bottom of a first upper column of an upper tower section, connecting a top of a second vertical column of a lower tower section directly below the upper tower section to a bottom of a second upper column of an upper tower section and connecting a top of a third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the lower tower section. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a lower tower section that can be connected to an upper tower section by connecting a top of a vertical column of the lower tower section to a bottom of an upper column of the upper tower section. Furthermore, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that is fully assembled and ready to raise and lower a wind powered generator when a lower tower section is connected to an upper tower section. As discussed above, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that could raise or lower a wind powered generator. Accordingly, claim 1 is in condition for allowance.

Claims 2-8 depend from claim 1, and since claim 1 defines unobvious patentable subject matter, claims 2-8 define patentable subject matter. Furthermore, in regard to claim 3, the prior art of record does not disclose or suggest a carriage that includes a first side groove configured to accept a first vertical strip and a second side groove configured to accept a

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second vertical strip. Specifically, neither of the Abe '434 patent nor the Ferguson '346 patent disclose a carriage with a groove. Moreover, in regard to claim 4, the prior art of record does not disclose or suggest a vertical track including a first side guide having a first vertical strip and a second side guide having a second vertical strip, wherein the first vertical strip is comprised of a plurality of first vertical strip portions and the second vertical strip is comprised of a plurality of second vertical strip portions. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a vertical track of an elevator that includes vertical strip portions. Furthermore, in regard to claim 6, the prior art of record does not disclose or suggest a carriage that includes a pivot ring adapted to allow a wind powered generator to pivot about a carriage when the wind powered generator is located at a top of an upper tower section. Neither of the Abe '434 patent nor the Ferguson '346 patent disclose a pivot ring. Accordingly, claims 2-8 are in condition for allowance.

Claims 11-14 define a wind powered generator support assembly for supporting a wind powered generator including, among other things, a tower and a vertical elevator on the tower including a track and a carriage configured to move along the track, with the carriage including a pivot ring, wherein the tower comprises a lower tower section and an upper tower section, with the lower tower section including a first vertical column, a second vertical column and a third vertical column and the upper tower section including a first upper column, a second upper column and a third upper column, wherein the lower tower section is configured to be connected to the upper tower section by connecting a top of the first vertical column of the lower tower section directly below the upper tower section to a bottom of the first upper column of the upper tower section, connecting a top of the second vertical column of the lower tower section directly below the upper tower section to a bottom of the second upper column of the upper tower section, and connecting a top of the third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the upper tower section, and wherein the track is fully assembled and ready to raise and lower the wind powered generator when the lower tower section is connected to the upper tower section.

As noted above, claims 11-14 depend from claim 9, and since claim 9 defines

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unobvious patentable subject matter, claims 11-14 define patentable subject matter. Furthermore, the prior art of record does not disclose the above noted features of claims 11-14. Specifically, even if there was a reason to combine the Abe '434 patent and the Ferguson '346 patent, the resulting tower would not include a lower tower section configured to be connected to an upper tower section by connecting a top of a first vertical column of a lower tower section directly below an upper tower section to a bottom of a first upper column of an upper tower section, connecting a top of a second vertical column of a lower tower section directly below the upper tower section to a bottom of a second upper column of an upper tower section and connecting a top of a third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the lower tower section. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a lower tower section that can be connected to an upper tower section by connecting a top of a vertical column of the lower tower section to a bottom of an upper column of the upper tower section. Furthermore, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that is fully assembled and ready to raise and lower a wind powered generator when a lower tower section is connected to an upper tower section. As discussed above, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that could raise or lower a wind powered generator. Accordingly, claims 1-14 are in condition for allowance.

Furthermore, in regard to claim 12, the prior art of record does not disclose or suggest a carriage that includes a first side groove configured to accept a first vertical strip and a second side groove configured to accept a second vertical strip. Specifically, neither of the Abe '434 patent nor the Ferguson '346 patent disclose a carriage with a groove. Moreover, in regard to claim 13, the prior art of record does not disclose or suggest a vertical track including a first vertical strip and a second side guide having a second vertical strip, wherein the first vertical strip is comprised of a plurality of first vertical strip portions and the second vertical strip is comprised of a plurality of second vertical strip portions. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a vertical track of an elevator that includes vertical strip portions. Accordingly, claims 12 and 13 are in condition for allowance.

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Claims 11-14 define a wind powered generator support assembly for supporting a wind powered generator including, among other things, a tower and a vertical elevator on the tower including a track and a carriage configured to move along the track, with the carriage including a pivot ring, wherein the tower comprises a lower tower section and an upper tower section, with the lower tower section including a first vertical column, a second vertical column and a third vertical column and the upper tower section including a first upper column, a second upper column and a third upper column, wherein the lower tower section is configured to be connected to the upper tower section by connecting a top of the first vertical column of the lower tower section directly below the upper tower section to a bottom of the first upper column of the upper tower section, connecting a top of the second vertical column of the lower tower section directly below the upper tower section to a bottom of the second upper column of the upper tower section, and connecting a top of the third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the upper tower section, and wherein the track is fully assembled and ready to raise and lower the wind powered generator when the lower tower section is connected to the upper tower section.

As noted above, claims 20-23 depend from claim 18, and since claim 18 defines unobvious patentable subject matter, claims 20-23 define patentable subject matter. Furthermore, the prior art of record does not disclose the above noted features of claims 20-23. Specifically, even if there was a reason to combine the Abe '434 patent and the Ferguson '346 patent, the resulting tower would not include a lower tower section configured to be connected to an upper tower section by connecting a top of a first vertical column of a lower tower section directly below an upper tower section to a bottom of a first upper column of an upper tower section, connecting a top of a second vertical column of a lower tower section directly below the upper tower section to a bottom of a second upper column of an upper tower section and connecting a top of a third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the lower tower section. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a lower tower section that can be connected to an upper tower section by connecting a top of a vertical

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column of the lower tower section to a bottom of an upper column of the upper tower section. Furthermore, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that is fully assembled and ready to raise and lower a wind powered generator when a lower tower section is connected to an upper tower section. As discussed above, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that could raise or lower a wind powered generator. Accordingly, claims 20-23 are in condition for allowance.

Furthermore, in regard to claim 21, the prior art of record does not disclose or suggest a carriage that includes a first side groove configured to accept a first vertical strip and a second side groove configured to accept a second vertical strip. Specifically, neither of the Abe '434 patent nor the Ferguson '346 patent disclose a carriage with a groove. Moreover, in regard to claim 22, the prior art of record does not disclose or suggest a vertical track including a first vertical strip and a second side guide having a second vertical strip, wherein the first vertical strip is comprised of a plurality of first vertical strip portions and the second vertical strip is comprised of a plurality of second vertical strip portions. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a vertical track of an elevator that includes vertical strip portions. Accordingly, claims 21 and 22 are in condition for allowance.

Claim 57 defines a portable wind powered generation system including, among other things, a tower having an upper tower section and a lower tower section, with the upper tower section and the lower tower section being removably connected, a wind powered generator and an elevator connected to the tower, the elevator being able to move between the lower tower section and the upper tower section of the tower, wherein the wind powered generator is configured to be connected to the elevator to raise the wind powered generator from the lower tower section to the upper tower section and wherein the wind powered generator can be unconnected from the elevator and the upper tower section can be unconnected from the lower tower section, thereby allowing the portable wind powered generator assembly to be easily transported and erected. The prior art of record does not disclose or suggest the above noted features of claim 57. Specifically, even if there was a suggestion or motivation for combining the Abe '434 patent with the Ferguson '346 patent, the resulting combination would not

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include a tower having an upper tower section and a lower tower section removably connected. Furthermore, such a combination would not include a wind powered generator that can be unconnected from an elevator and a lower tower section that can be unconnected from an upper tower section. Accordingly, claim 57 is in condition for allowance.

Claims 58-70 depend from claim 57, and since claim 57 defines unobvious patentable subject matter, claims 58-70 define patentable subject matter. Claims 58-70 define the wind powered electrical generation system and further include, among other things, a lower tower section including a first vertical column, a second vertical column and a third vertical column, an upper tower section including a first upper column, a second upper column and a third upper column, with the first upper column and the second upper column being substantially parallel and the third upper column converging towards the first upper column and the second upper column and an elevator configured to be connected to a wind powered generator to raise and lower the wind powered generator from the lower tower section to the upper tower section wherein the lower tower section is configured to be connected to the upper tower section by connecting a top of the first vertical column of the lower tower section directly below the upper tower section to a bottom of the first upper column of the upper tower section, connecting a top of the second vertical column of the lower tower section directly below the upper tower section to a bottom of the second upper column of the upper tower section, and connecting a top of the third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the upper tower section, and wherein the elevator is fully assembled and ready to raise and lower the wind powered generator when the lower tower section is connected to the upper tower section. The prior art of record does not disclose or suggest the above noted features of claims 58-70. Specifically, even if there was a reason to combine the Abe '434 patent and the Ferguson '346 patent, the resulting tower would not include a lower tower section configured to be connected to an upper tower section by connecting a top of a first vertical column of a lower tower section directly below an upper tower section to a bottom of a first upper column of an upper tower section, connecting a top of a second vertical column of a lower tower section directly below the upper tower section to a bottom of a second upper column of an upper tower section and

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connecting a top of a third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the lower tower section. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a lower tower section that can be connected to an upper tower section by connecting a top of a vertical column of the lower tower section to a bottom of an upper column of the upper tower section. Furthermore, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that is fully assembled and ready to raise and lower a wind powered generator when a lower tower section is connected to an upper tower section. As discussed above, any combination of the Abe '434 patent and the Ferguson '346 patent would not include an elevator that could raise or lower a wind powered generator. Accordingly, claims 58-70 are in condition for allowance.

Furthermore, in regard to claim 59, the prior art of record does not disclose or suggest a carriage that includes a first side groove configured to accept a first vertical strip and a second side groove configured to accept a second vertical strip. Specifically, neither of the Abe '434 patent nor the Ferguson '346 patent disclose a carriage with a groove. Moreover, in regard to claim 60, the prior art of record does not disclose or suggest a vertical track including a first vertical strip and a second side guide having a second vertical strip, wherein the first vertical strip is comprised of a plurality of first vertical strip portions and the second vertical strip is comprised of a plurality of second vertical strip portions. Neither the Abe '434 patent nor the Ferguson '346 patent disclose a vertical track of an elevator that includes vertical strip portions. Furthermore, in regard to claim 61, the prior art of record does not disclose or suggest a carriage that includes a pivot ring adapted to allow a wind powered generator to pivot about a carriage when the wind powered generator is located at a top of an upper tower section. Neither of the Abe '434 patent nor the Ferguson '346 patent disclose a pivot ring. Accordingly, claims 59-61 are in condition for allowance.

Claims 8, 16, 25 and 63

Claims 8, 16, 25 and 63 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of U.S. Patent No. 6,239,507 to Douthit. As

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discussed above, claims 8, 16, 25 and 63 depend from claims 1, 9, 18 and 57, respectively. Since claims 1, 9, 18 and 57 define unobvious patentable subject matter, claims 8, 16, 25 and 63 define patentable subject matter. Nevertheless, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. According to the Office Action, "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to design the tower as taught by Abe and to provide the carriage including the plurality of contacts contacting the rotating portion of the wind powered generator as taught by Douthit for the purpose of transferring the current from the generator to external storage or transmission means while allowing unlimited and free rotation of the generation above a vertical axis." However, there is no suggestion or motivation for substituting the turntable 16 as disclosed in the Douthit '507 patent for the mount 12 disclosed in the Abe '434 patent. Such a combination would not allow the necelle 2, rotor head 4 or rotor blades 5 of the Abe '434 patent to be raised or lowered because the turntable 16 could not move on the guides 1a disclosed by the Abe '434 patent. Accordingly, claims 8, 16, 25 and 63 are in condition for allowance.

In regard to the third criterion of obviousness, the prior art references do not teach or suggest all of the claim limitations. Claim 8 depends from claims 2 and 1. Therefore, even if there was suggestion or motivation for combining the Abe '434 patent with the Douthit '507

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patent, such a combination would not include the tower as claimed in claim 1 or the elevator as claimed in claim 2. Likewise, claim 63 depends from claims 57-62. Therefore, even if there was a suggestion or motivation for combining the Abe '434 patent with the Douthit '507 patent, any such combination would not include the tower as defined in those claims or the elevator as defined in those claims. Regarding claims 8 and 63, Applicant notes that the Office Action admits that the Abe '434 patent does not disclose a tower comprising a lower tower section and an upper tower section. Accordingly, claims 8, 16, 25 and 63 are in condition for allowance.

Claims 27 and 28

Claims 27 and 28 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of U.S. Patent No. 2,052,454 to Elwood 2d et al. Claims 27 and 28 depend from claim 18. As discussed above, claim 18 defines unobvious patentable subject matter, and therefore claims 27 and 28 define unobvious patentable subject matter. Nevertheless, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

According to the Office Action: "Re claim 28, the combined system include the cam member shown by Ellwood, 2d as element 23 and the cam surface 32 engaging the cam member to rotate the airfoils relatively to the spars as the airfoils move along the spars. However, it does not disclose the cam member adjacent the second end of the spar, opposite the hub. It would have been an obvious matter of design choice to locate the cam member

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adjacent the second end of the spar, opposite the hub for an easy access to the pitch adjustment mechanism without taking the blade out of the spar, since applicant has not disclosed that this particular arrangement of the cam member solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the cam member adjacent the hub." First, Ellwood, 2d et al. disclose that element 23 is the outer wider tip end of the blade 21. Applicant does not see how the outer wider tip end 23 of the blade 21 works with a reduced inner end 32 of a screw 31 to rotate the air foils. According to the Ellwood, 2d et al. '454 patent, the screw 31 has "a reduced inner end 32 loosely engaged in a spiral channel or groove 33 formed in the hub 18 on the control shaft 17 and this hub slides radially to produce the turning of the same with the resulting adjustment of the blades to vary the pitch of the same." Applicant notes that the screw 31 is fixed to the ring 10 and that the screw 31 must remain fixed relative to the ring 10 for the blade 21 to rotate. Accordingly, to move the reduced inner end 32 of the screw 31 to a second end of the hollow tubular stems 19 would require that the ring 10 also be moved to the outside or second end of the hollow tubular stems 19. There is no suggestion or motivation for making such a change because the resultant change would destroy any usefulness of the blades 21.

According to §2142 of the M.P.E.P.:

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

Furthermore, according to the same section:

The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.

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As discussed above, the Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. The initial burden is not on the Applicant to factually support a prima facie conclusion of non-obviousness. Accordingly, claims 27 and 28 are in condition for allowance.

In regard to the third criterion of obviousness, the prior art references do not teach or suggest all of the claim limitations. In regard to claim 28, even if there was a suggestion or motivation to combine the Abe '434 patent with the Ellwood, 2d et al. '454 patent as put forth in the Office Action, such a combination would not result in a spar including a cam member. Accordingly, claim 28 is in condition for allowance.

Claim 29

Claim 29 has been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent. Claim 29 depends from claim 18, and since claim 18 defines onobvious patentable subject matter as discussed above, claim 29 defines unobvious patentable subject matter. Nevertheless, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In the rejection of claim 29 in the Office Action, the Office Action states that: "Abe disclosed the airfoil and generator including a vertical leg 10 to rotate the generator relatively the carriage. However, Abe does not disclose the leg rotating relatively to the carriage. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the leg rotating relatively to the carriage for the purpose of eliminating an

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oversized bearing and replace it with a shaft diameter sized bearing, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 U.S.P.Q. 70."

Applicant does not understand how the Abe '434 patent can disclose an "airfoil and generator including a vertical leg 10 to rotate the generator relative to the carriage," but "does not disclose the leg rotating relatively to the carriage." Applicant notes that the initial burden is on the Examiner to make a prima facie case of obviousness, and Applicant submits that the inconsistency noted above makes an analysis of the rejection of claim 29 difficult. Nevertheless, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the reference itself, or in the knowledge generally available to one of ordinary skill in the art to modify the reference. According to the Office Action, it would have been obvious to provide the leg rotating relatively to the carriage for the purpose of eliminating an oversized bearing and replace it with a shaft diameter sized bearing. According to the Office Action, the motivation for making such a substitution is that rearranging parts of an invention involves only routine skill in the art. Applicant does not understand how a substitution is similar to rearranging parts and submits that the case cited by the Examiner is not applicable to any rejection of claim 29. Furthermore, "The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivational reason for the worker in the art, without the benefit of Applicants' specification, to make the necessary changes in the reference device." MPEP 2144.04; Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984). Moreover, in regard to the third criterion of obviousness, the prior art reference does not teach or suggest all the claim limitations. Even if there was a suggestion or motivation for modifying the Abe '434 reference as stated in the Office Action, any such modification would not include a wind powered generator that has a vertical leg configured to be placed within the mount 12 of the Abe '434 patent. Accordingly, claim 29 is in condition for allowance.

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Claims 30, 44, 45, 50 and 52

Claims 30, 44, 45, 50 and 52 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of U.S. Patent No. 5,584,655 to Deering. Claim 30 depends from claims 29 and 18. As discussed above, claims 18 and 29 define unobvious patentable subject matter, and therefore claim 30 defines unobvious patentable subject matter. Furthermore, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine the reference teachings. According to the Office Action, "It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined tower and to the horizontal leg including first and second shaft with the first shaft being rotatable within the second shaft and being interconnected with the foils and the second shaft connected to the vertical leg and the generator as taught by Deering for the purpose of positioning the airofils at a desired downstream configuration by rotating the generator about the vertical axis while allowing the foil and shaft rotation over the horizontal axis and consequently to turn the electric generator." Applicant submits that there is no suggestion or motivation for combining the Abe '434 patent with the Deering '655 patent as set forth in the Office Action because the Abe '434 patent already includes rotor blades 5 that can rotate about the vertical shaft 10. Accordingly, such a modification of the Abe '434 patent would not improve the Abe '434 patent because the invention disclosed in the Abe '434 patent

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already performs the function set forth as being the motivation for combining the Abe '434 patent with the Deering '655 patent. Moreover, as illustrated in Fig. 2 of the Deering '655 patent, the wind turbine as disclosed in the '655 patent is very large (see person inside of the generator in Fig. 2). Therefore, if the shaft 202 and the spindle 210 were placed on the mount 12, the rope 14 would not be able to raise and lower such a huge object. In other words, the huge discrepancy in size between the wind turbine of the Abe '434 patent and the wind turbine of the '655 patent goes against any suggestion or motivation for combining the references. Accordingly, claims 30, 44, 45, 50 and 52 are in condition for allowance.

In regard to the third criterion of obviousness, the prior art references do not teach or suggest all of the claim limitations. In regard to claim 45, even if there was a motivation for combining the Abe '434 patent with the Deering '655 patent, any such combination would not result in a carriage having a first side groove configured to accept a first vertical strip and a second side groove configured to accept a second vertical strip as claimed in claim 45. Neither the Abe '434 patent nor the Deering '655 patent disclose or suggest a carriage having grooves for accepting vertical strips. Furthermore, in regard to claim 50, any such combination would not include a carriage including a pivot ring having a plurality of roller bearings configured to accept a first member thereon for allowing the first member to rotate. Any combination of the Abe '434 patent with the Deering '655 patent would not result in a pivot ring having a plurality of roller bearings. Accordingly, claims 45 and 50 are in condition for allowance.

Claims 31-33 and 53-56

Claims 31-33 and 53-56 have been rejected under 35 U.S.C. §103 as being unpatentable over the Abe '434 patent in view of the Deering '655 patent and further in view of the Ellwood, 2d '454 patent. Claims 31-33 depend from claims 30, 29 and 18. As discussed above, claims 30, 29 and 18 define unobvious patentable subject matter, and therefore, claims 31-33 define unobvious patentable subject matter. Furthermore, claims 53-56 depend from claim 44. As discussed above, claim 44 defines patentable subject matter and therefore, claims 53-56 define patentable subject matter. Nevertheless, in order to establish a

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prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. As discussed above regarding claims 27 and 28, there is no suggestion or motivation for combining the Abe '434 patent and the Ellwood, 2d '454 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Ellwood, 2d '454 patent apply to a combination of the Abe '434 patent, the Deering '655 patent and the Ellwood, 2d et al. '454 patent and is hereby incorporated regarding the rejection of claims 31-33 and 53-56. Furthermore, as discussed above regarding claims 30, 44, 45, 50 and 52, there is no suggestion or motivation for combining the Abe '434 patent with the Deering '655 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Deering '655 patent apply to a combination of the Abe '434 patent, the Deering '655 patent and the Ellwood, 2d et al. '454 patent and is hereby incorporated regarding the rejection of claims 31-33 and 53-56.

In regard to the third criterion of obviousness, the prior art of record does not disclose or suggest all of the claim limitations. Claims 31-33 provide that a second shaft of a horizontal leg is connected to an end of a vertical leg at a position off center from an axis of the vertical leg. Neither the Abe '434 patent, the Deering '655 patent, nor the Ellwood, 2d et al. '454 patent disclose a horizontal leg connected to an end of a vertical leg at a position off center from an axis of the vertical leg. Furthermore, claims 54-56 provide that a second

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member is connected to an end of a first member at a position off center from an axis of the first member. Neither the Abe '434 patent, the Deering '655 patent, nor the Ellwood, 2d et al. '454 patent disclose a second member connected to an end of a first member at a position off center from an axis of the first member. Accordingly, claims 31-33 and 54-56 are in condition for allowance.

Claims 34 and 35

Claims 34 and 35 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Ellwood, 2d et al. '454 patent. In order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art to modify the reference. As discussed above regarding claim 28, there is no suggestion or motivation for locating a spiral channel or groove 33 formed in a hub 18 at the end of the stems 19 as disclosed in the Ellwood, 2d et al. '454 patent and all discussion regarding the rejection of claim 28 as it pertains to the first criterion of obviousness are incorporated herein. Furthermore, as discussed regarding claim 28, the Examiner bears the initial burden of establishing a prima facie case of obviousness. Accordingly, claims 34 and 35 are in condition for allowance.

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Claims 39-41

Claims 39-41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Ellwood, 2d et al. '454 patent. In order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art to modify the reference teachings. While it may have been held that discovering an optimum value of a result effective variable involves only routine skill in the art, the burden is on the Examiner to show that the prior art suggests that the number of blades is a result effective variable. See *In re Boesch*, 205 U.S.P.Q. 215 (C.C.P.A. 1980); M.P.E.P. §2144.05(II)(B). Furthermore, as discussed above, the Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. Accordingly, claims 39-41 are in condition for allowance.

In regard to the third criterion of obviousness, the prior art reference does not teach or suggest all of the claim limitations. In regard to claim 39, even if there was a suggestion or motivation for modifying the Ellwood, 2d et al. '454 patent as set forth in the Office Action, any such modification would not result in a generator being located upwind of spars and interconnected to a rod. "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." M.P.E.P. § 2112; *In re Rijchaert*, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993). "In relying upon the theory of inherency, the Examiner must provide a basis in fact

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and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. and Inter. 1990) (emphasis original). Therefore, the *Ellwood*, 2d et al. '454 patent, even if it did disclose a generator, does not disclose a generator located upwind of the spars and interconnected to a rod. Furthermore, in regard to claim 40, the Office Action in the rejection of claim 40 has not provided a cam member adjacent a second end of a spar opposite a hub. Accordingly, claims 39-41 are in condition for allowance.

Claims 35-37, 42 and 43

Claims 35-37, 42 and 43 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the *Ellwood*, 2d et al. '454 patent in view of the *Deering* '655 patent. Claims 35-37 depend from claim 34. As discussed above, claim 34 defines unobvious patentable subject matter, and therefore, claims 35-37 define unobvious patentable subject matter. Likewise, claims 42 and 43 depend from claim 39. As discussed above, claim 39 defines unobvious patentable subject matter, and therefore, claims 42 and 43 define unobvious patentable subject matter. Nevertheless, in order to establish a *prima facie* case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a *prima facie* case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. First, as discussed above regarding claims

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31-33, the large sized discrepancy between the propeller as disclosed in the Ellwood, 2d et al. '454 patent and the Deering '655 patent teaches against any combination of these two patents. Furthermore, the Ellwood, 2d et al. '454 patent discloses that the stem 19 is connected to the hub by a yoke 15. There is no suggestion or motivation for combining the extremely large blades of the Deering '655 patent to a hub wherein the small yoke 15 holds the blades on a hub because the instability of such a combination would be extremely dangerous. Accordingly, claims 35-37, 42 and 43 are in condition for allowance.

In regard to the third criterion of obviousness, the prior art references do not teach or suggest all of the claim limitations. In regard to claims 36 and 42, the prior art of record does not disclose or suggest a housing connected to an end of a vertical leg at a position off center from an axis of the vertical leg. Neither the Ellwood, 2d et al. '454 patent nor the Deering '655 patent disclose a housing connected to an end of a vertical leg at a position off center from an axis of the vertical leg. Accordingly, claims 36 and 42 are in condition for allowance.

Claim 38

Claim 38 has not been rejected over the prior art and is believed to be in condition for allowance.

Claims 46-49

Claims 46-49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of the Deering '655 patent and the Ferguson '346 patent. Claims 46-49 depend from claim 44. As discussed above, claim 44 defines unobvious patentable subject matter, and therefore, claims 46-49 define unobvious patentable subject matter. Nevertheless, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a

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reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. As discussed above regarding claim 30, there is no suggestion or motivation for combining the Abe '434 patent and the Deering '655 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Deering '655 patent apply to a combination of the Abe '434 patent, the Deering '655 patent and the Fergusson '346 patent and is hereby incorporated regarding the rejection of claims 46-49. Furthermore, as discussed above regarding claims 20-23, there is no suggestion or motivation for combining the Abe '434 patent with the Fergusson '346 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Fergusson '346 patent apply to a combination of the Abe '434 patent, the Deering '655 patent and the Fergusson '346 patent and is hereby incorporated regarding the rejection of claims 46-49. Therefore, claims 46-49 are in condition for allowance.

Furthermore, even if there was a reason to combine the Abe '434 patent, the Fergusson '346 patent and the Deering '655 patent. Furthermore, the resulting tower would not include a lower tower section configured to be connected to an upper tower section by connecting a top of a first vertical column of a lower tower section directly below an upper tower section to a bottom of a first upper column of an upper tower section, connecting a top of a second vertical column of a lower tower section directly below the upper tower section to a bottom of a second upper column of an upper tower section and connecting a top of a third vertical column of the lower tower section directly below the upper tower section to a bottom of the third upper column of the lower tower section. Neither the Abe '434 patent, the Deering '655 patent, nor the Ferguson '346 patent disclose a lower tower section that can be connected to an

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upper tower section by connecting a top of a vertical column of the lower tower section to a bottom of an upper column of the upper tower section. Furthermore, any combination of the Abe '434 patent, the Deering '655 patent and the Ferguson '346 patent would not include an elevator that is fully assembled and ready to raise and lower a wind powered generator when a lower tower section is connected to an upper tower section. As discussed above, any combination of the Abe '434 patent, the Deering '655 patent and the Ferguson '346 patent would not include an elevator that could raise or lower a wind powered generator. Accordingly, claims 46-49 are in condition for allowance.

Furthermore, in regard to claim 47, the prior art of record does not disclose or suggest a carriage that includes a first side groove configured to accept a first vertical strip and a second side groove configured to accept a second vertical strip. Specifically, neither of the Abe '434 patent, the Deering '655 patent, nor the Ferguson '346 patent disclose a carriage with a groove. Moreover, in regard to claim 48, the prior art of record does not disclose or suggest a vertical track including a first vertical strip and a second side guide having a second vertical strip, wherein the first vertical strip is comprised of a plurality of first vertical strip portions and the second vertical strip is comprised of a plurality of second vertical strip portions. Neither the Abe '434 patent, the Deering '655 patent, nor the Ferguson '346 patent disclose a vertical track of an elevator that includes vertical strip portions. Accordingly, claims 47 and 48 are in condition for allowance.

Claim 51

Claim 51 has been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of the Deering '655 patent and the Douthit '507 patent. Claim 51 depends from claim 44. As discussed above, claim 44 defines unobvious patentable subject matter, and therefore, claim 51 defines unobvious patentable subject matter. Nevertheless, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to

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modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. As discussed above regarding claim 25, there is no suggestion or motivation for combining the Abe '434 patent and the Douthit '507 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Douthit '507 patent apply to a combination of the Abe '434 patent, the Deering '655 patent and the Douthit '507 patent and is hereby incorporated regarding the rejection of claim 51. Furthermore, as discussed above regarding claim 30, there is no suggestion or motivation for combining the Abe '434 patent with the Deering '655 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Deering '655 patent apply to a combination of the Abe '434 patent, the Deering '655 patent and the Douthit '502 patent and is hereby incorporated regarding the rejection of claim 51.

Claims 64-66

Claims 64-66 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of the Douthit '507 patent and the Ellwood, 2d et al. '454 patent. Claims 64-66 depend from claims 57-63. As discussed above, claims 57-63 define unobvious patentable subject matter, and therefore, claims 64-66 define unobvious patentable subject matter. Nevertheless, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary

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skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. As discussed above regarding claims 27 and 28, there is no suggestion or motivation for combining the Abe '434 patent and the Ellwood, 2d '454 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Ellwood, 2d '454 patent apply to a combination of the Abe '434 patent, the Douthit '507 patent and the Ellwood, 2d et al. '454 patent and is hereby incorporated regarding the rejection of claims 64-66. Furthermore, as discussed above regarding claim 25, there is no suggestion or motivation for combining the Abe '434 patent with the Douthit '507 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent and the Douthit '507 patent apply to a combination of the Abe '434 patent, the Douthit '507 patent and the Ellwood, 2d et al. '454 patent and is hereby incorporated regarding the rejection of claims 64-66.

Claims 67-70

Claims 67-70 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Abe '434 patent in view of the Deering '655 patent and the Douthit '507 patent and the Ellwood, 2d et al. '454 patent. Claims 67-70 depend from claims 57-66. As discussed above, claims 57-66 define unobvious patentable subject matter, and therefore, claims 67-70 define unobvious patentable subject matter. Nevertheless, in order to establish a prima facie case of obviousness, three basic criteria must be met, according to the Manual of Patent Examining Procedure, §706.02(j). These three are repeated as follows. Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally

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available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Secondly, there must be a reasonable expectation of success. Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. Applicant respectfully asserts that the Examiner has not met his burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the rejection of the subject claims is inappropriate, and should be withdrawn.

In regard to the first criterion of obviousness, there is no suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. As discussed above regarding claims 64-66, there is no suggestion or motivation for combining the Abe '434 patent, the Ellwood, 2d '454 patent and the Douthit '507 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent, the Ellwood, 2d '454 patent and the Douthit '507 patent apply to a combination of the Abe '434 patent, the Douthit '507 patent, the Ellwood, 2d et al. '454 patent and the Deering '655 patent is hereby incorporated regarding the rejection of claims 67-70. Furthermore, as discussed above regarding claims 30 and 42, there is no suggestion or motivation for combining the Abe '434 patent or the Ellwood, 2d et al. '454 patent, respectively, or the Deering '655 patent. The argument set forth describing the lack of suggestion or motivation for combining the Abe '434 patent or the Ellwood, 2d et al. '454 patent with the Deering '655 patent apply to a combination of the Abe '434 patent, the Deering '655 patent, the Ellwood, 2d et al. '454 patent and the Douthit '507 patent and is hereby incorporated regarding the rejection of claims 67-70.

All pending claims 1-70 are believed to be in condition for allowance, and a Notice to this effect is therefore earnestly solicited.

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Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version With Markings to Show Changes Made."

Respectfully submitted,

STEVE ANDERSON PLATT

By: Price, Heneveld, Cooper,
DeWitt & Litton

3/11/03
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